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NOTES OF CASES.

IRREGULARITY IN STATUTES GOVERNING THE TRANSFER OF TRUST PROPERTY OUT OF THE STATE—VA. CODE ANNO., SECS. 2629-2633 INCLUSIVE.—There is a marked and confusing irregularity in the statutes relative to transferring trust effects out of the State. Section 2629 deals with *property* or *money* of minor or insane persons, and there is nothing in the section itself which requires that there should be any publication of the application for the transfer. Sec. 2630, however, which deals with the transfer of the *proceeds* of *real estate*, provides in its last sentence that no such transfer shall be made until there is done what is required by secs. 2631 and 2633 to authorize a transfer under sec. 2629. By reference to these former sections (2631 and 2633) it will be seen that nothing is therein required to be done as to sec. 2629. Section 2631, however, provides that "No such order" for a transfer shall be made until the application shall have been published, &c. As to sec. 2630, therefore, this latter provision is simply a repetition of what is contained in the last sentence of sec. 2630, referred to above. In *Snawly v. Harkrader*, 29 Gratt. 112, 130, the words, "No such order" beginning the section 2631 are construed to refer to both secs. 2629 and 2630, that is, the court decided that the provision requiring publication of the application for transfer, &c, applied to both sections. So that, even if said last sentence of sec. 2630 had been omitted altogether, it would seem that it would still be necessary to publish application, &c., both for the transfer of property or money under sec. 2629, and for the transfer of proceeds of real estate under sec. 2630.

But compliance with sec. 2633 is also required in the last sentence of sec. 2630. Sec. 2633 applies only to transfer of non-resident trustees, and is otherwise practically a repetition of sec. 2631, and hence the reference to it in sec. 2630 is entirely useless and confusing. The defects might be remedied by leaving out the last sentence of 2630 and adding both to secs. 2629 and 2630 the following words: "No such order shall be made until the requirements of sec. 2631 have been complied with, and then adding after the words, "No such order" in sec. 2631, the following words: "As is mentioned in secs. 2629 and 2630."

MASTER—ACTS OF SERVANT—ASSAULT AND BATTERY—SCOPE OF AUTHORITY—LIABILITY.—In *Waalor v. Great Northern Ry. Co.* (S. D.), 100 N. W. 1097, it was held:

Where railroad employes were directed to build a snow fence on property not owned by the railroad, and in compliance with a request of the owner one of her servants went to the crew and remonstrated with them, forbade them to erect the fence there, and demanded the removal thereof, whereupon, at the instance of the foreman of the crew, commanding one of his men to "go after" the owner's servant, he was set upon and beaten, the assault was not within the scope of the authority of the railroad company's employé, and hence the railroad was not liable therefor, citing *Holler v. Ross*, 68 N. J. Law, 324, 53 Atl. 472, 59 L. R. A. 943, 96 Am. St. Rep. 546; *Henry v. Pittsburgh Ry. Co.*, 139 Pa. 289, 21